

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**PASCUAL S. SOLIS**  
Claimant

VS.

**EMERSON ELECTRIC COMPANY**  
Respondent  
Self-Insured

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Docket No. 222,013

**ORDER**

Claimant appeals from a preliminary hearing Order dated April 24, 1997, wherein Administrative Law Judge John D. Clark denied temporary total disability and medical benefits. The Order of the Administrative Law Judge does not specify the reason behind this denial.

**ISSUES**

Claimant, in his Application for Review, states only that the Administrative Law Judge erred in denying all benefits at the preliminary hearing. The brief by claimant to the Appeals Board points out that the Administrative Law Judge failed to state a basis for his denial of benefits.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented, the Appeals Board finds as follows:

K.S.A. 44-551(b)(2)(A), as amended, provides that the Appeals Board shall not review a preliminary hearing order entered by an administrative law judge unless it is alleged an administrative law judge exceeded his or her jurisdiction in granting or denying the requested relief.

K.S.A. 44-534a, as amended, allows appeals from preliminary hearings with regard to the following disputed issues which are to be considered jurisdictional and subject to review by the Appeals Board:

- (1) Whether the employee suffered an accidental injury.
- (2) Whether the injury arose out of and in the course of the employee's employment.
- (3) Whether notice is given or claim timely made.
- (4) Whether certain defenses apply.

In the instant case the Administrative Law Judge denied claimant's request for temporary total disability and medical treatment. The Order does not specify the reason behind this denial. There is evidence in the file to indicate the denial could stem from a finding that claimant's accidental injury did not arise out of and in the course of claimant's employment or that notice of accident was not timely given. There is also information in the file to indicate the Judge's denial could stem from a finding not contained within the jurisdictional items listed in K.S.A. 44-534a, as amended.

The Appeals Board is unable to ascertain from the record the basis for the denial of benefits in this matter. As such, the Appeals Board must remand this matter back to the Administrative Law Judge for further findings and to specify in his Order the basis for the denial of benefits, so the Appeals Board can determine its jurisdiction to hear any appeal from that order.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board finds that this matter be remanded back to Administrative Law Judge John D. Clark for further findings consistent with this decision. The Appeals Board does not retain jurisdiction over this proceeding. Should either party be aggrieved by any amended order rendered by the Administrative Law Judge in this matter, the appropriate procedure for filing a new application for review by the Appeals Board must be filed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July 1997.

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BOARD MEMBER

c: William L. Phalen, Pittsburg, KS  
Edward D. Heath, Jr., Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director